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NINETY-NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

November 4, 1985

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Executive Registry

85- 4406

Honorable William J. Casey
Director
Central Intelligence Agency
Washington, DC 20505

OS REGISTRY
FILE *Leg-6-2*

The committee herewith submits to you the enclosed
bill, H.R. 3626, upon which the committee
would appreciate a prompt report, together with such
comment as you may desire to make.

Will you kindly transmit your reply in triplicate.

Respectfully,

Jack Brooks

Chairman.

Enclosure.

OS REGISTRY
JP 11/7

99TH CONGRESS
1ST SESSION

H. R. 3626

To establish the National Commission on Classified Information and Security
Clearance Procedures.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1985

Mr. WORTLEY (for himself, Mr. BOEHLERT, Mr. EMERSON, Mr. FISH, Mr. GALLO, Mr. GARCIA, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. McCANDLESS, Mr. MOLINARI, Mr. NIELSON of Utah, Mr. RUDD, and Mr. DENNY SMITH) introduced the following bill; which was referred jointly to the Committees on Government Operations and the Permanent Select Committee on Intelligence

A BILL

To establish the National Commission on Classified Information
and Security Clearance Procedures.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "National Commission on
5 Classified Information and Security Clearance Procedures".

6 **SEC. 2. ESTABLISHMENT.**

7 (a) **ESTABLISHMENT.**—There is established a commis-
8 sion to be known as the National Commission on Classified

1 Information and Security Clearance Procedures (hereinafter
2 in this Act referred to as the "Commission").

3 (b) FEDERAL ADVISORY COMMITTEE ACT.—The pro-
4 visions of the Federal Advisory Committee Act shall not
5 apply to the Commission.

6 SEC. 3. DUTIES OF COMMISSION.

7 (a) INVESTIGATION.—The Commission shall investi-
8 gate—

9 (1) the standards and procedures used by each
10 Federal authority to issue security clearances and to
11 classify information;

12 (2) the procedures used by each Federal authority
13 to ensure that all persons to whom a security clearance
14 has been issued continue to meet the standards
15 required for such clearance;

16 (3) the extent to which current standards and pro-
17 cedures for classifying information cause more informa-
18 tion to be classified than is required by the national
19 security; and

20 (4) the dangers posed to the national security by
21 the growth in the number of persons holding security
22 clearances.

23 (b) RECOMMENDATIONS.—The Commission shall make
24 the following recommendations:

1 (1) It shall recommend to each branch of the Fed-
2 eral Government uniform standards and procedures for
3 issuing all security clearances. Such standards and pro-
4 cedures shall be designed to ensure that neither the
5 number of security clearance holders nor the qualifica-
6 tions for holding a security clearance will threaten the
7 national security.

8 (2) It shall recommend to each branch of the Fed-
9 eral Government a uniform procedure for ensuring that
10 any person holding a security clearance continues to
11 meet the standards required for such clearance.

12 (3) It shall recommend to each branch of the Fed-
13 eral Government uniform standards and procedures for
14 classifying documents. Such standards and procedures
15 shall be designed to prevent classifying documents
16 whose classification is not necessary to the national
17 security and to prevent the needless duplication of doc-
18 uments which do warrant a security classification.

19 **SEC. 4. MEMBERSHIP.**

20 (a) **NUMBER AND APPOINTMENT.**—The Commission
21 shall be composed of 17 members as follows:

22 (1) The Chief Justice of the Supreme Court of the
23 United States.

24 (2) 4 Members of the House of Representatives, 2
25 to be appointed by the Speaker of the House of Repre-

1 representatives and 2 to be appointed by the minority leader
2 of the House of Representative.

3 (3) 4 Members of the Senate, 2 to be appointed by
4 the majority leader of the Senate and 2 to be appointed
5 by the minority leader of the Senate.

6 (4) 8 individuals appointed by the President from
7 persons whose education, training, or experience spe-
8 cially qualify them to serve on the Commission. Not
9 more than 4 members appointed under this paragraph
10 may be of the same political party.

11 A vacancy in the Commission shall be filled in the manner in
12 which the original appointment was made.

13 (b) SECURITY CLEARANCES.—No one may be appoint-
14 ed to the Commission who does not hold the security clear-
15 ance necessary to carry out the duties of the Commission as
16 set out in section 3.

17 (c) CONTINUATION OF MEMBERSHIP.—If any member
18 of the Commission who was appointed to the Commission as
19 the Chief Justice of the Supreme Court of the United States
20 or as a Member of the Congress leaves such office, he may
21 continue as a member of the Commission for not longer than
22 the 30-day period beginning on the date he leaves such office.

23 (d) TERMS.—Members shall be appointed for the life of
24 the Commission.

1 (e) **BASIC PAY.**—Members of the Commission shall
2 serve without pay.

3 (f) **QUORUM.**—9 members of the Commission shall con-
4 stitute a quorum.

5 (h) **CHAIRMAN.**—The Chairman of the Commission
6 shall be the Chief Justice of the Supreme Court of the United
7 States. The Vice Chairman of the Commission shall be elect-
8 ed by the members of the Commission. The term of office of
9 the Chairman and Vice Chairman shall be for the life of the
10 Commission.

11 (i) **MEETINGS.**—The Commission shall meet at the call
12 of the Chairman or Vice Chairman.

13 **SEC. 5. DIRECTOR AND STAFF OF COMMISSION.**

14 (a) **DIRECTOR.**—The Commission shall have a Director
15 who shall be appointed by the Commission.

16 (b) **STAFF.**—The Commission may appoint such addi-
17 tional personnel as it considers appropriate.

18 (c) **APPLICABILITY OF CERTAIN CIVIL SERVICE**
19 **LAWS.**—The Director and staff of the Commission may be
20 appointed without regard to the provisions of title 5, United
21 States Code, governing appointments in the competitive serv-
22 ice, and may be paid without regard to the provisions of
23 chapter 51 and subchapter III of chapter 53 of such title
24 relating to classification and General Schedule pay rates,
25 except that no individual so appointed may receive pay in

1 excess of the annual rate of basic pay payable for GS-18 of
2 the General Schedule.

3 (d) EXPERTS AND CONSULTANTS.—The Commission
4 may procure temporary and intermittent services under sec-
5 tion 3109(b) of title 5 of the United States Code, but at rates
6 for individuals not to exceed the daily equivalent of the
7 annual rate of pay payable for GS-18 of the General Sched-
8 ule.

9 (e) STAFF OF FEDERAL AGENCIES.—Upon request of
10 the Commission, the head of any Federal agency is author-
11 ized to detail, on a reimbursable basis, any of the personnel of
12 such agency to the Commission to assist the Commission in
13 carrying out its duties under this Act.

14 (f) SECURITY CLEARANCES.—No one shall serve as the
15 Director, or on the staff, of the Commission who does not
16 hold the security clearance necessary to perform the duties of
17 his position.

18 SEC. 6. POWERS OF COMMISSION.

19 (a) HEARINGS AND SESSIONS.—The Commission may,
20 for the purpose of carrying out section 3 of this Act, hold
21 such hearings, sit and act at such times and places, take such
22 testimony, and receive such evidence, as the Commission
23 considers appropriate. The Commission may administer oaths
24 or affirmations to witnesses appearing before it.

1 (b) PUBLIC ACCESS TO COMMISSION MEETINGS AND
2 HEARINGS.—Notwithstanding section 552b of title 5, United
3 States Code, a Commission meeting or hearing may be closed
4 to the public when the Commission, in open session and with
5 a majority present, determines by rollcall vote that all or part
6 of the remainder of the meeting or hearing on that day shall
7 be closed to the public because disclosure of testimony, evi-
8 dence, or other matters to be considered would endanger the
9 national security.

10 (c) POWERS OF MEMBERS AND AGENTS.—Any
11 member or agent of the Commission may, if so authorized by
12 the Commission, take any action which the Commission is
13 authorized to take by this section.

14 (d) OBTAINING OFFICIAL DATA.—The Commission
15 may secure directly from any department or agency of the
16 United States information necessary to enable it to carry out
17 this Act. Upon request of the Chairman or Vice Chairman of
18 the Commission, the head of such department or agency shall
19 furnish such information to the Commission.

20 (e) GIFTS.—The Commission may accept, use, and dis-
21 pose of gifts or donations of services or property.

22 (f) MAILS.—The Commission may use the United States
23 mails in the same manner and under the same conditions as
24 other departments and agencies of the United States.

1 (g) ADMINISTRATIVE SUPPORT SERVICES.—The Ad-
2 ministrator of General Services shall provide to the Commis-
3 sion on a reimbursable basis such administrative support
4 services as the Commission may request.

5 (h) SUBPOENA POWER.—

6 (1) The Commission may issue subpoenas requir-
7 ing the attendance and testimony of witnesses and the
8 production of any evidence that relates to any matter
9 which the Commission is empowered to investigate by
10 section 3. Such attendance of witnesses and the pro-
11 duction of such evidence may be required from any
12 place within the United States.

13 (2) If a person issued a subpoena under paragraph
14 (1) refuses to obey such subpoena or is guilty of contu-
15 macy, any court of the United States within the judi-
16 cial district within which the hearing is conducted or
17 within the judicial district within which such person is
18 found or resides or transacts business may (upon appli-
19 cation by the Commission) order such person to appear
20 before the Commission to produce evidence or to give
21 testimony relating to the matter under investigation.
22 Any failure to obey such order of the court may be
23 punished by such court as a contempt thereof.

24 (3) The subpoenas of the Commission shall be
25 served in the manner provided for subpoenas issued by

1 a United States district court under the Federal Rules
2 of Civil Procedure for the United States district courts.

3 (4) All process of any court to which application
4 may be made under this section may be served in the
5 judicial district in which the person required to be
6 served resides or may be found.

7 (i) IMMUNITY.—No person shall be excused from at-
8 tending and testifying or from producing books, records, cor-
9 respondence, documents, or other evidence in obedience to a
10 subpoena, on the ground that the testimony or evidence re-
11 quired of him may tend to incriminate him or subject him to a
12 penalty or forfeiture; but no individual shall be prosecuted or
13 subjected to any penalty or forfeiture by reason of any trans-
14 action, matter, or thing concerning which he is compelled,
15 after having claimed his privilege against self-incrimination,
16 to testify or produce evidence, except that such individual so
17 testifying shall not be exempt from prosecution and punish-
18 ment for perjury committed in so testifying.

19 SEC. 7. REPORT.

20 The Commission shall transmit a final report to the
21 President, to each House of the Congress, and to the Su-
22 preme Court of the United States not later than one year
23 after appropriations are first made for the Commission. The
24 final report shall contain a detailed statement of the findings

1 and conclusions of the Commission, together with whatever
2 recommendations it makes pursuant to section 3.

3 **SEC. 8. PUBLIC ACCESS TO COMMISSION DOCUMENTS.**

4 Notwithstanding section 552(a) of title 5, United States
5 Code, the records, reports, transcripts, minutes, appendixes,
6 working papers, drafts, studies, agenda, or other documents
7 which were made available to or prepared for or by the Com-
8 mission may be withheld from public inspection when the
9 Commission, in open session and with a majority present,
10 determines by rollcall vote that disclosure of such documents
11 would endanger the national security.

12 **SEC. 9. TERMINATION.**

13 The Commission shall cease to exist 30 days after sub-
14 mitting its final report pursuant to section 7.

○

EXECUTIVE SECRETARIAT

ROUTING SLIP

TO:

| | | ACTION | INFO | DATE | INITIAL |
|----|------------|--------|------|------|---------|
| 1 | DCI | | X | | |
| 2 | DDCI | | X | | |
| 3 | EXDIR | | X | | |
| 4 | D/ICS | | | | |
| 5 | DDI | | X | | |
| 6 | DDA | | X | | |
| 7 | DDO | | X | | |
| 8 | DDS&T | | X | | |
| 9 | Chm/NIC | | | | |
| 10 | GC | | X | | |
| 11 | IG | | | | |
| 12 | Compt | | | | |
| 13 | D/OLL | X | | | |
| 14 | D/PAO | | X | | |
| 15 | D/PERS | | | | |
| 16 | VC/NIC | | | | |
| 17 | D/Security | | X | | |
| 18 | G/SECOM | | X | | |
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SUSPENSE 14 NOV 85
Date

Remarks

TO #13: Please prepare appropriate response.

STAT

6 NOV 85
Date

3637 (10-81)